

# LICENSEE BULLETIN

Vol. 56, No. 2

VIRGINIA DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

## Instructions for Operating Under a Retail Alcoholic Beverage License

Listed below are several instructions based upon some of the more important Laws, Rules and Regulations of the Board affecting licensees and their establishments.

All **employees should be fully acquainted with these instructions.** In case of doubt as to the meaning of these instructions, the Rules and Regulations affording the bases therefor, or any other Laws, Rules or Regulations affecting licensees and their establishments, inquiries may be addressed to the Special Agent assigned to your area or to this Department, P.O. Box 27491, Richmond, Va. 23261.

1. Do not sell any alcoholic beverages to any person who you know, or have reason at the time to believe, is intoxicated, and do not allow any alcoholic beverage to be consumed by such a person upon your licensed premises.  
  
Do not allow any person you know, or have reason to believe, is intoxicated to **loiter** upon your licensed premises. Any person who has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movements, general appearance or behavior shall be deemed to be intoxicated.
2. Persons **under twenty-one (21) years of age** may not purchase, possess, or consume any alcoholic beverages nor may such alcoholic beverages be purchased for them.
3. Do not give alcoholic beverages to patrons in connection with the operation of your business. This is applicable only in part to Gourmet Shop licensees, who should contact the local Special Agent for further details. Wine wholesalers may participate in a **wine tasting** sponsored by a wine gourmet shop licensee for its customers and may provide educational materials, oral or written, pertaining thereto, as well as participate in the pouring of such wine.
4. Do not allow any noisy, lewd or disorderly conduct upon your licensed premises, or allow any lewd, obscene or indecent literature, pictures or materials upon the licensed premises.
5. Do not allow your establishment to become a meeting place or rendezvous for **users of narcotics, drunks, prostitutes, gamblers or habitual law violators.**
6. Do not maintain your premises in an **unsanitary condition.**
7. Do not allow any form of **illegal gambling** to take place upon your licensed premises.
8. Do not possess any **illegal gambling apparatus, machine or device**, such as certain video card games, upon your licensed premises.

9. **Do not be intoxicated** or under the influence of a self-administered drug while upon your licensed premises.

10. **Do not** keep or allow to be kept upon your licensed premises any alcoholic beverage which you are **not authorized to sell**, and **do not** allow your patrons to consume upon such premises any alcoholic beverage not sold under your license.

Certain exceptions apply to persons operating restaurants and those holding culinary permits or catering to certain types of private meetings and private parties. Contact the local Special Agent for further details.

11. **Do not** sell or deliver alcoholic beverages or allow the consumption of alcoholic beverages upon your licensed premises **during restricted hours**.

12. **Do not** purchase alcoholic beverages except for **cash paid at or before the time of delivery**. "Cash" means currency (including coin), a money order, or a valid check drawn upon a bank account in the name of the licensee or in the trade name of the licensee issuing the check and dated as to the date of purchase of the alcoholic beverages covered by the check or an electronic fund transfer initiated by a wholesaler pursuant to Board Regulations.

A money order or check may not be in an amount larger than the purchase price of the alcoholic beverages. However, if nonalcoholic merchandise is also sold to you by a wholesaler of wine or beer, you may use one check to pay for both the nonalcoholic and alcoholic merchandise as long as the check is in an amount no larger than the combined purchase price. A separate invoice shall be used for the nonalcoholic merchandise and a copy of that invoice shall be attached to your copy of the alcoholic beverage merchandise invoice. Each invoice must be signed by the purchasing licensee or his duly authorized agent.

13. **Do not obtain or accept from manufacturers, bottlers or wholesalers** of alcoholic beverages any money, equipment, furniture, fixtures or other property except as authorized by law. The following equipment **may be furnished** to you for use in your licensed business by manufacturers, bottlers or wholesalers of alcoholic beverages:

1. Wine and Beer bottle or can openers- The wholesale value may not exceed **\$5.00 per opener**. Openers in excess of \$5.00 in value may be sold to you at the reasonable open market price.

2. Novelty and Speciality Items - Items not in excess of \$5.00 in wholesale value, limited to one (1) item per retailer and one (1) item per employee, per visit, which may not be displayed on licensed premises. Such items may not be given to patrons on the premises of retail licensees.
- c. **Draft beer knobs** - Such knobs containing advertising matter, which must include the brand name and may further include only trademarks, housemarks and slogans, shall not include any illuminating devices or be otherwise adorned with mechanical devices which are not essential to the dispensing of draft beer.
- d. **Draft beer tapping equipment for use in your retail establishment** - Such equipment is defined as all the parts of the mechanical system required for dispensing draft beer in a normal manner from the carbon dioxide tank through the beer faucet, **excluding the following**:
  1. The carbonic acid gas in containers, except that such gas may be sold only at the reasonable open market price in the locality where sold.
  2. Gas pressure gauges (may be sold at cost)
  3. Draft arms or standards
  4. Draft boxes
  5. Refrigeration equipment or components thereof.
- e. **Draft beer tapping equipment for use by a purchaser from you of draft beer**- A manufacturer, bottler or wholesaler of alcoholic beverages may **sell, rent or lend** to you for use by such a purchaser whatever tapping equipment may be necessary for the purchaser to extract draft beer from its container.
- f. **Paper, cardboard and plastic advertising materials**, clip-ons and table tents relating to wine and beer may be furnished by wine and beer manufacturers, bottlers or wholesalers. With the consent of the retail licensee, which may be a continuing consent, a wholesaler may mark or affix retail prices on such advertising materials. The clip-ons and table tents may contain a listing of not more than four (4) wines and four (4) beers.
- g. **Wine tapping equipment** - Any manufacturer, bottler or wholesaler may sell to any retailer and install in the retailer's establishment tapping accessories such as standards, faucets, rods, vents, taps, tap standards, hoses, cold plates, washers, couplings, gas gauges, vent tongues, shanks, and check valves, if the tapping accessories are sold at a price not less than the cost to the industry member who initially purchased them, and if the price is collected within 30 days of the date of sale.

Wine tapping equipment shall not include the following:

1. **Draft wine knobs**, which may be given to a retailer;
  2. Carbonic acid gas, nitrogen gas, or compressed air in containers, except that such gases may be sold in accordance with the reasonable open market prices in the locality where sold and if the price is collected within 30 days of the date of sale.
  3. **Mechanical refrigeration** equipment.
- h. Any beer tapping equipment may be **converted for wine tapping** by the beer wholesaler who originally placed the equipment on the premises of the retail licensee provided that such beer

wholesaler is also a wine wholesale licensee. Moreover, at the time such equipment is converted for wine tapping, it must be sold, or have previously been sold, to the retail licensee at a price not less than the initial purchase price paid by such wholesalers.

**14. Do not** obtain or accept from manufacturers, bottlers or wholesalers of alcoholic beverages **any services** in connection with your licensed business **other than the following:**

- a. A Wholesaler may **clean and service beer coils** and other like equipment.
- b. At any time except on Sunday, a wholesaler may rotate, restock, repack and rearrange his brands of wine and beer in a display (shelves, coolers, cold boxes, and the like and floor displays in a sales area). The wholesaler must have your express consent or that of a designated manager before he may perform such services. Such consent may be a continuing consent. A wholesaler may also create or build original displays using only the wine or beer products.

**15. Do not** employ in your licensed business any person who is engaged in the manufacturing, bottling or wholesaling of alcoholic beverages, or any employee of any such person.

**16.** A wholesaler **may not sell or offer to sell** alcoholic beverages to a retailer with the privileges of return, except for ordinary and usual commercial reasons as set forth below:

- a. Products defective at the time of delivery may be replaced.
- b. Products erroneously delivered may be replaced or money refunded.
- c. Resalable draft beer may be returned and money refunded.
- d. Products in the possession of a retail licensee whose license is terminated by operation of law, voluntary surrender or order of the Board may be returned and money refunded upon permit issued by the Board.
- e. Products which have been condemned and are not permitted to be sold in this state may be replaced or money refunded upon permit issued by the Board.
- f. Wine and Beer may be exchanged on an identical quantity, brand and package basis for quality control purposes. Any exchange shall be documented by the word "**exchange**" on a proper invoice.

**17.** Manufacturers or wholesale licensees may provide the following business entertainment to you:

- a. Meals and beverages
- b. Concerts, theatre and arts entertainment
- c. Sports participation and entertainment
- d. Entertainment at charitable events and
- e. Private parties.

Entertainment which involves **overnight stay is prohibited; no more than \$200 per 24-hour period** may be spent on any retail licensee or employee of any retail licensee, and no one person may be entertained more than **six (6) times** by a wholesaler and **six (6) times** by a manufacturer per calendar year. Such restrictions, however, do not apply to spouses of such individuals. Contact your local Special Agent for further details.

**18. Do not** keep your establishment arranged or **illuminated** in such a manner as to prevent law enforcement officers and agents of the Board from having access to and reasonable observation of the room or rooms within which alcoholic beverages are sold or consumed. Interior lighting should be adequate to make the appearance and conduct of persons in such rooms easily discernible.

19. **Do not** sell or allow the consumption of alcoholic beverages in any portion of your licensed establishment which has **not been approved** for such purpose by the Board.
20. **Do not allow** any person who is **less than eighteen (18) years of age to sell**, serve or dispense alcoholic beverages for on-premises consumption. Do not allow any person who is less than **twenty-one (21) years of age** to prepare, mix or serve a customer any alcoholic beverage in the capacity of a bartender; however, a person who is eighteen (18) years of age or older may sell or serve beer for on-premises consumption at a counter in an establishment that sells beer only.
21. **Do not** allow any person other than a **licensed individual** or, in his absence a **manager designated** for the purpose, to be in charge of the business covered by your license, and prior to placing such manager in charge you must post his name in no less than one (1) inch letters as a manager of your establishment. A person under twenty-one (21) years of age may not be designated as a manager.
22. **Do not** employ, other than as a busboy, cook, or other kitchen help, any person who has been convicted of a felony.
23. **Do not** store any alcoholic beverages on any premises other than that described in your license except upon a permit issued by the Board.
24. **Do not** open containers of wine or beer sold for off-premises consumption and do not allow your patrons to carry out of your licensed establishment wine or beer in opened containers. **However**, wine sold for on-premises consumption may be removed from the premises if not consumed, but only in the original package with closure.
25. You may purchase wine, including fortified wine or beer to be dispensed under your license only from persons licensed to sell wine or beer at **wholesale**, and other retailers upon special permits from the Board. **Do not** fail to keep complete and accurate records of purchases of wine from such sources for a period of two years.
26. **Do not** serve wine except from its **original container**; from a cooler-dispenser designed so that the original container becomes a part of the equipment; from a frozen drink dispenser or container used in automatic dispensing of a type approved by the Board or from a carafe or decanter not exceeding 52 fluid ounces.
27. **Do not** engage in or have in your licensed establishment any **advertising which is prohibited** by Regulations of the Board. It is suggested the local Special Agent be contacted regarding other advertising.
28. Keep **complete and accurate records** covering every phase of the business conducted under your license, including:
  - a. **All invoices** of wine or beer purchased or received by you. Such invoices must be kept separate from all other records of the business conducted under your license and they must be maintained in orderly arrangement for convenient reference in a binder, envelope or file at your licensed establishment. Each wine or beer invoice must be kept in such manner at your establishment for a period of two (2) years from the date of the invoice and must be available for inspection by the Board or its duly authorized agents any time during business hours.
  - b. A **check book** record of checks issued in payment for alcoholic beverages, all canceled checks drawn in payment for such merchandise, and related bank statements. The records must be kept at your licensed establishment for a period of two (2) years and must be available for inspection

by the Board or its duly authorized agents at all times during business hours.

29. Allow duly authorized agents of the Board **free access to your licensed establishment** at all times during business hours for the purpose of inspecting the premises and all records, invoices and accounts thereon.
30. Only the individual, partnership, association or corporation whose name appears on the license may exercise the privileges of the license and only at the place designated thereon. Any change in the **status of ownership**, such as the sale of the business or admitting a new partner, automatically **terminates** the current license and a new application must be filed. If the license is issued to a corporation you must notify the Board within **thirty (30) days** of the changes in the officers, directors or shareholders owning 10% or more of the capital stock. However, corporations or their wholly owned subsidiaries whose stock is publicly owned and traded do not have to report transfers of stock.
31. **Do not** sell any alcoholic beverage for consumption off your licensed premises to any person on the licensed premises unless he is **in the establishment**, and **do not** sell or deliver any such merchandise to any person who is seated in a vehicle.
32. **Do not discriminate** against any member of the Armed Forces of the United States by prices charged or otherwise.
33. **Do not** engage in any of the following practices:
  - a. Conducting a **"happy hour"** promotion during the hours of **9:00 p.m. to 2:00 a.m.** each day. **Happy hour is defined as a specified period of time during which alcoholic beverages are sold at prices reduced from the customary price established by you.**
  - b. Allowing a person to possess more than **two drinks (2 )** at any one time during a happy hour. Drink is defined as any beverage containing the amount of alcoholic beverages customarily served to a patron as a single serving by a retail licensee.
  - c. Increasing the volume of alcoholic beverages contained in a drink at any time without increasing proportionately the customary or established retail price charged for such drink.
  - d. Selling **two or more drinks for one price**, such as "two for one" or "three for one" at any time.
  - e. Selling **pitchers of mixed beverages** at any time.
  - f. **Giving away drinks** at any time.
  7. Selling an **unlimited number of drinks** for one price, such as "all you can drink for \$5.00" at any time; however, packaged deals (i.e. New Year's Eve gatherings, etc.) must specify a limited number of drinks.
  - h. **Advertising** happy hour in the media or on the exterior or the licensed premises.

The rule shall not apply to prearranged private parties, functions, or events, not open to the public, where the guests thereof are served in a room or rooms designated and used exclusively for private parties, functions or events.

34. If a **banquet facility license** was issued to a **volunteer fire department or volunteer rescue squad** the following applies.
  - a. The consumption of legally acquired alcoholic beverages will be permitted on the premises of the licensee or on premises other than such fire or rescue squad station which are occupied and under the control of the licensee while the privilege of its license is being exercised, by any persons, association, corporation or other entity, including the fire department or rescue squad, and bona

- vide members and guests thereof, otherwise eligible for a banquet license and entitled to such privilege for a private affair or special event.
- b. Alcoholic beverages cannot be sold or purchased by volunteer fire departments or volunteer rescue squads.
  - c. The volunteer fire department or rescue squad shall notify the Board in writing at least two (2) calendar days in advance of any affair or event at which the license will be used away from the fire department or rescue squad station. The notice shall include the date, time, location and address of the event and the identity of the group, and the type of affair or event. Such records of off-site affairs and events should be maintained at the fire department or rescue squad station for a period of two years.

#### Special Occupational Tax:

There is a Special Occupational Tax administered by the Bureau of Alcohol, Tobacco and Firearms (BATF), United States Department of Treasury.

# This Tax Has Been Suspended Until June 30, 2008

Retail Wine, Beer and Mixed Beverages Licensees .....	\$250.00
Wholesale Wine and Beer Distributors .....	\$500.00
Breweries .....	\$1000.00/ \$500.00*
Distilled Spirits Plants.....	\$1000.00/ \$500.00*
Farm Wineries and Wineries.....	\$1000.00/ \$500.00*

\* The \$500.00 rate is for businesses with gross sales less than \$500,000.00.

**\*\*Note:** This is an annual federal tax for which the **Virginia Alcoholic Beverage Control Board** has no responsibility. If you have an questions, contact the BATF office nearest you:

Norfolk	Roanoke
Richmond	Falls Church

This Licensee Bulletin supersedes Licensee Bulletin 54-2, dated December 30, 1988, addressed to the same persons on the same subject. The last document of this nature was Licensee Bulletin 56-1, dated December 31, 1990, addressed to Each Person Holding A Mixed Beverage License. Subject: Instructions For Operating Under A Mixed Beverage Restaurant License, Mixed Beverage Carrier License Or Mixed Beverage Caterer's License.

#### VIRGINIA DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

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